

HOUSE BILL No. 1778

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7.

Synopsis: Northwestern Indiana council of governments. Repeals the law governing a regional plan commission in Lake County, Porter County, and LaPorte County and provides that the regional plan commission becomes, on July 1, 2003, the northwestern Indiana council of governments. Establishes the council as a coordinating agency for other public and private agencies to provide direct and indirect services to citizens that promote regional objectives. Provides for an annual appropriation budget apportioned pro rata to each participating county of \$0.70 per capita. Permits applications for grants, appropriations, gifts, and contributions from private and governmental entities. Provides for the management and expenditure of funds appropriated or transferred to the council. Establishes organizational and operational procedures.

Effective: July 1, 2003.

Pelath, Ayres, Stevenson, Kuzman

January 21, 2003, read first time and referred to Committee on Interstate and International Cooperation.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1778

A BILL FOR AN ACT to amend the Indiana Code concerning local government and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-7-7-4 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following members of the
3 commission shall be appointed from each county in the region:

4 (1) A representative of the county executive who may be either a
5 member of the executive or a person appointed by it.

6 (2) A representative of the county fiscal body who must be a
7 member of the fiscal body.

8 (b) The following members of the commission shall be appointed
9 from each county in the region having a population of more than fifty
10 thousand (50,000):

11 (1) The county surveyor or a person appointed by him.

12 (2) Two (2) persons appointed by the executive of each
13 municipality having a population of more than fifty thousand
14 (50,000).

15 (3) Except for a commission in which a county having a
16 population of more than four hundred thousand (400,000) but less
17 than seven hundred thousand (700,000) participates, One (1)



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person appointed by the executive of each of the seven (7) largest municipalities having a population of less than fifty thousand (50,000). If there are fewer than seven (7) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subdivision to seven (7).

(4) For a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates, the membership is as follows:

(A) For a county having a population of not more than four hundred thousand (400,000); one (1) person appointed by the executive of each of the eight (8) largest municipalities having a population of less than fifty thousand (50,000):

(B) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); one (1) person appointed by the executive of each city having a population of less than fifty thousand (50,000) and one (1) person appointed by the executive of each of the five (5) towns with the largest population:

(c) The following members of the commission shall be appointed from each county in the region having a population of less than fifty thousand (50,000):

(1) One (1) person appointed by the executive of each of the five (5) largest municipalities or of each municipality if there are fewer than five (5).

(2) If there are fewer than five (5) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subsection to five (5).

(d) One (1) voting member of the commission shall be appointed by the governor.

(e) At least two-thirds (2/3) of the commission members must be elected officials. All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

A member of the commission may also serve as a member of a plan commission in the region.

(f) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(g) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the

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records of the commission.

(h) ~~This subsection applies to a commission that does not include members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).~~ If a vacancy occurs by resignation or otherwise, the respective appointing authority shall appoint a member for the unexpired term. Members shall be certified annually, and their terms expire on December 31 of each year.

SECTION 2. IC 36-7-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to

~~(1) seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates; and~~

~~(2) thirty cents (\$0.30) per capita for all other commissions;~~

shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to ~~seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates~~ and thirty cents (\$0.30) per capita for each participating county ~~for all other commissions~~ is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the

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1 expenditure of sums appropriated as provided in this section, a claim
 2 must be filed and processed as other claims for allowance or
 3 disallowance, for payment as provided by law.

4 (d) Any two (2) of the following officers may allow claims:

- 5 (1) Chairman.
- 6 (2) Vice chairman.
- 7 (3) Secretary.
- 8 (4) Treasurer.

9 The treasurer of the commission may receive, disburse, and otherwise
 10 handle funds of the commission subject to applicable statutes and
 11 procedures established by the commission.

12 (e) The commission shall act as a board of finance under the statutes
 13 relating to the deposit of public funds by political subdivisions.

14 (f) Any appropriated money remaining unexpended or
 15 unencumbered at the end of the year becomes part of a nonreverting
 16 cumulative fund to be held in the name of the commission. Unbudgeted
 17 expenditures from this fund may be authorized by vote of the
 18 commission and upon other approval as required by statute. The
 19 commission is responsible for the safekeeping and deposit of such
 20 sums, and the state board of accounts shall prescribe the methods and
 21 forms for keeping the accounts, records, and books to be used by the
 22 commission. The books, records, and accounts of the commission shall
 23 be periodically audited by the state board of accounts, and these audits
 24 shall be paid for as provided by statute.

25 SECTION 3. IC 36-7-7.6 IS ADDED TO THE INDIANA CODE
 26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]:

28 **Chapter 7.6. Northwestern Indiana Council of Governments**

29 **Sec. 1. This chapter applies to the area consisting of the**
 30 **following counties:**

- 31 **(1) A county having a population of more than four hundred**
 32 **thousand (400,000) but less than seven hundred thousand**
 33 **(700,000).**
- 34 **(2) A county having a population of more than one hundred**
 35 **forty-five thousand (145,000) but less than one hundred**
 36 **forty-eight thousand (148,000).**
- 37 **(3) A county having a population of more than one hundred**
 38 **ten thousand (110,000) but less than one hundred fifteen**
 39 **thousand (115,000).**

40 **Sec. 2. As used in this chapter, "council" means the**
 41 **northwestern Indiana council of governments established by**
 42 **section 3 of this chapter.**

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1 **Sec. 3.** The northwestern Indiana council of governments is
 2 established for the area described in section 1 of this chapter.

3 **Sec. 4. (a)** The following members shall be appointed to the
 4 council:

5 (1) A representative of the county executive of each county
 6 described in section 1 of this chapter who may be either a
 7 member of the executive or a person appointed by it.

8 (2) A representative of the county fiscal body of each county
 9 described in section 1 of this chapter who must be a member
 10 of the fiscal body.

11 (3) The county surveyor of each county described in section 1
 12 of this chapter or a person appointed by the county surveyor.

13 (4) Two (2) persons appointed by the executive of each
 14 municipality in a county described in section 1 of this chapter
 15 having a population of more than fifty thousand (50,000).

16 (5) For a county having a population of not more than four
 17 hundred thousand (400,000), one (1) person appointed by the
 18 executive of each of the eight (8) largest municipalities having
 19 a population of less than fifty thousand (50,000).

20 (6) For a county having a population of more than four
 21 hundred thousand (400,000) but less than seven hundred
 22 thousand (700,000), one (1) person appointed by the executive
 23 of each city having a population of less than fifty thousand
 24 (50,000) and one (1) person appointed by the executive of each
 25 of the five (5) towns with the largest population.

26 (b) One (1) voting member of the commission shall be appointed
 27 by the governor.

28 **Sec. 5 (a)** At least two-thirds (2/3) of the council members must
 29 be elected officials.

30 (b) All persons appointed to the council must be:

31 (1) knowledgeable in matters of physical, social, or economic
 32 development of the region; and

33 (2) residents of the municipality, county, or region that they
 34 represent.

35 (c) A member of the council may also serve as a member of a
 36 plan commission in the region.

37 (d) Members of the council shall serve without salary but may
 38 be reimbursed for expenses incurred in the performance of their
 39 duties.

40 (e) The respective appointing authorities shall certify their
 41 appointments, and the certification shall be retained as a part of
 42 the records of the council.



(f) Each member serves at the pleasure of the appointing authority. The appointing authority shall give written notice to the council of a change of an appointee and the effective date of that change.

(g) If a vacancy occurs by resignation or otherwise, the appointing authority shall promptly appoint a replacement member.

(h) If a member of the council is absent for more than three (3) consecutive meetings of the full council, the council shall notify that member's appointing authority and request the appointing authority to do one (1) of the following:

(1) Replace the member.

(2) Take action to assure the member's conscientious attendance at meetings of the full commission.

Sec. 6. (a) At its first regular meeting in each year, the council shall elect from its members a chairperson, vice chairperson, secretary, and treasurer.

(b) Not more than two (2) of the officers elected under subsection (a) may be from the same county. If the area served by the council is divided into subregions under section 19 of this chapter, there must be at least one (1) officer from each subregion.

(c) The vice chairperson may act as chairperson during the absence or disability of the chairperson.

Sec. 7. (a) The council shall fix the time and place for holding regular meetings, but it shall meet:

(1) at least quarterly; and

(2) at other times as are established by the council or the executive board of the council.

(b) The chairperson of the council or five (5) members of the council may call a special meeting of the council upon written request to the secretary of the council. The secretary shall send to all council members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and place of the special meeting. Written notice of a special meeting is not required if:

(1) the time of the special meeting has been fixed in a regular meeting; or

(2) all members are present at the special meeting.

(c) A council member may waive notice of any meeting by filing a written waiver with the secretary of the council.

Sec. 8. The council shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions,

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findings, and determinations. The council's record is a public record.

Sec. 9. A majority of members of the council constitutes a quorum. An action of the council is official only if the action is authorized by a majority of the council at:

(1) a regular meeting; or

(2) a properly called special meeting;

in which at least one (1) member from each county described in section 1 of this chapter is present.

Sec. 10. (a) The council shall elect from among its members an executive board that consists of the following:

(1) The four (4) officers of the council.

(2) One (1) member of the council from each county described in section 1 of this chapter.

(3) The member of the council appointed by the governor.

(b) The members of the executive board referred to in subsection (a)(2) shall be elected by a vote of the full membership of the council.

(c) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(d) The executive board shall conduct the business of the council, except for:

(1) the adoption and amendment of bylaws, rules, and procedures for the operation of the council;

(2) the election of officers and members of the executive board as provided in this chapter; and

(3) the adoption of the annual appropriation budget after review by the executive board.

(e) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the council of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the council.

(f) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by a majority of the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the council following the executive board's action. Upon either:

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- 1 (1) a decision by the majority of the board; or
 2 (2) written request of a member of the council;
 3 an issue shall be brought to a vote of the full council.

4 Sec. 11. (a) After review and recommendation by the executive
 5 board, the council shall appoint an executive director, who serves
 6 at the pleasure of the council. The executive director must be
 7 qualified by training and experience in the management of public
 8 agencies and knowledgeable in planning.

9 (b) The executive director is the chief administrative officer and
 10 regular technical adviser of the council. Subject to supervision by
 11 the council, the executive director:

- 12 (1) shall execute the council functions;
 13 (2) shall appoint and remove the staff of the council;
 14 (3) shall submit to the council annually, or more often if
 15 required, a status report on the operation of the agency;
 16 (4) may, with the approval of the executive board, execute
 17 contracts, leases, or agreements with other persons on behalf
 18 of the council;
 19 (5) is entitled, upon the executive director's written request,
 20 to be given access by all governmental agencies to all studies,
 21 reports, surveys, records, and other information and material
 22 in their possession that are required by the executive director
 23 for the accomplishment of the activities and objectives of the
 24 council;
 25 (6) shall propose annually a budget for the operation of the
 26 council and administer the budget as approved by the council;
 27 (7) shall keep the records and care for and preserve all papers
 28 and documents of the council; and
 29 (8) shall perform other duties and may exercise other powers
 30 that the council or the executive board delegates to the
 31 executive director.

32 Sec. 12. The council may do any of the following:

- 33 (1) Transact business and enter into contracts that support
 34 the council's purposes.
 35 (2) Receive grants or appropriations from federal, state, or
 36 local governmental entities or from individuals or foundations
 37 and enter into agreements or contracts regarding the
 38 acceptance or use of those grants and appropriations to carry
 39 out any of the activities of the council.
 40 (3) Apply for, receive, and disburse gifts, contributions, and
 41 grants of funds or in-kind services.
 42 (4) Acquire by grant, purchase, gift, devise, lease, or otherwise

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and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

as necessary for the full exercise, or convenient or useful for the carrying on, of any of the council's powers under this chapter.

(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the council's duties and the execution of the council's powers under this chapter.

(6) Employ and fix the compensation of any employees and agents the council considers necessary.

(7) Contract for special and temporary services and for professional assistance.

(8) Hold, use, administer, and expend money that is appropriated or transferred to the council.

(9) Make contracts and leases for facilities and services.

(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the council's objectives.

(11) Take any action or perform any service, including direct services to citizens, that the council considers appropriate and that is not otherwise prohibited by law.

(12) Enter into agreements or partnerships to do the following:

(A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.

(B) Assist in the development and implementation of programs by other regional agencies and entities.

(13) Enter into coordinative arrangements with:

(A) any unit of government in Indiana or an adjoining state;

(B) an overlapping multicounty or interstate planning or development agency;

(C) a state agency;

(D) a federal agency; or

(E) a private entity;

that are appropriate to the achievement of the council's objectives or to address a common issue.

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(14) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the council may enter into a contract concerning the council's provision of administrative, management, or technical services and the cost to the local unit for the services.

(15) Conduct all necessary studies for the accomplishment of the council's duties and objectives.

(16) Publicize and advertise the council's purposes, objectives, and findings and distribute reports on those purposes, objectives, and findings.

(17) Provide recommendations to units of local government and to other public and private agencies.

(18) Take any other action necessary to achieve the council's purpose.

Sec. 13. The council shall institute and maintain a comprehensive policy planning and programming and coordinative management process for the counties described in section 1 of this chapter. The council shall coordinate its activities with all units in the counties and shall coordinate the planning programs of those units and the state.

Sec. 14. The council may adopt by resolution any regional comprehensive or functional plan, program, or policy as the council's official recommendation for the development of the region, subject to the power of a county to exempt itself under section 15 of this chapter. The council shall provide an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

Sec. 15. If the council receives a petition that:

- (1) is signed by a majority of the council members representing a county affected by a particular program; and
- (2) objects to the establishment of the program within that county;

the council may not implement the program in that county.

Sec. 16. The council shall appoint advisory committees to assist in the achievement of its objectives. The membership of advisory committees shall not be limited to the members of the council. At least one (1) advisory committee shall be appointed with a membership that is representative of the private sector of the communities served by the council. Members of advisory committees are not entitled to compensation for their services but may be reimbursed by the council for expenses incurred in the

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performance of their duties.

Sec. 17. The council may not implement, enter into an agreement for, or propose a program that includes interstate wastewater management or disposal.

Sec. 18. A county or municipality may periodically upon the request of the council assign or detail to the council any employees of the county or municipality to make special surveys or studies requested by the council.

Sec. 19. (a) The council may organize into not more than two (2) subregions and provide for the following:

(1) The organization of two (2) subregional councils.

(2) Meetings and rules of procedure of the subregional councils. The rules of procedure of the subregional councils shall be adopted as a part of the rules and bylaws of the council.

(b) The actions of each subregional council shall be referred to the other subregional council for review. The executive director and staff of the council shall serve both subregional councils. Each subregional council shall consider problems that do not directly affect the other subregion. Each subregional council may hold meetings and elect a chairperson and secretary from among its own members.

Sec. 20. (a) The council shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents (\$0.70) per capita for each participating county shall be certified to the respective county auditor. The county auditor shall advertise the amount and establish the rate in the same manner as for other county budgets, with the exception that the rate may exceed the levy limitations contained in IC 6-1.1-18.5-13.

(b) Any amount of the adopted budget that exceeds an amount equal to seventy cents (\$0.70) per capita for each participating county is subject to review by the county fiscal body in the usual manner of budget review. The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred to the council.

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(c) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the council shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(d) After the budget is approved, amounts may not be expended except as budgeted unless the council authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(e) Any two (2) of the following officers may allow claims:

- (1) Chairperson.
- (2) Vice chairperson.
- (3) Secretary.
- (4) Treasurer.

(f) The treasurer of the council may receive, disburse, and otherwise handle funds of the council, subject to applicable statutes and to procedures established by the council.

(g) The council shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(h) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the council. Unbudgeted expenditures from this fund may be authorized by vote of the council and upon other approval as required by statute. The council is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the council. The books, records, and accounts of the council shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

SECTION 4. IC 36-7-7-4.1 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 5. [EFFECTIVE JULY 1, 2003] (a) A regional plan commission under IC 36-7-7 that includes a county described in IC 36-7-7.6-1, as added by this act, becomes on July 1, 2003, the northwestern Indiana council of governments, subject to IC 36-7-7.6, as added by this act.

(b) A municipality or county required to make an appointment



1 to the northwestern Indiana council of governments under
2 IC 36-7-7.6-4, as added by this act, shall make the appointment
3 before July 15, 2003.

4 (c) On July 1, 2003, all property of the regional plan commission
5 described in subsection (a) becomes the property of the
6 northwestern Indiana council of governments, subject to
7 IC 36-7-7.6, as added by this act.

8 (d) This SECTION expires January 1, 2004.

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